

Remarks

The Office Action mailed 1/8/03 rejected claims 42-44 and 46-53 under 35 U.S.C. 102(e) over Coury et al.

Independent claim 42 has been amended to specify that the formulation is contained in a metered dose inhaler for oral and/or nasal inhalation. Support for the amendment can be found at page 8, lines 25-27, of the specification.

Coury et al. is limited to formulations suitable for cosmetic or dermatologic skin conditions, which would not include a metered dose inhaler for oral and/or nasal inhalation. It is therefore submitted that claim 42 and the dependent claims are clearly distinguished over Coury et al. Reconsideration and favorable action are therefore requested.

Respectfully submitted,

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Version With Markings to Show Changes Made

42. A sustained release medicinal aerosol formulation comprising:
- (a) a propellant;
  - (b) A therapeutically effective amount of a drug; and
  - (c) a sufficient amount of a biocompatible polymer substantially completely dissolved in the formulation so as to provide for sustained release of the drug; wherein the sustained release formulation results in discrete, nonfilm forming particles upon delivery, and  
wherein the formulation is contained in a metered dose inhaler for oral and/or nasal inhalation.

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